

## Message Text

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PAGE 01 STATE 064386

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ORIGIN L-02

INFO OCT-01 NEA-09 ISO-00 SCSE-00 SCA-01 PPTE-00 VO-03

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DRAFTED BY L/M - HORACE F. SHAMWELL, JR.

APPROVED BY L/M - K. E. MALMBORG

NEA/IRN -

SCA/SCS - MR. CHASE

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FM SECSTATE WASHDC

TO AMEMBASSY TEHRAN

UNCLAS STATE 064386

E.O. 11652: N/A

TAGS:CASC, IR

SUBJECT:CONSULAR PROTECTION FOR DUAL NATIONALS

REFS; (A) TEHRAN'S A-L68 (NOVEMBER 24, L974); (B) STATE'S

A-8073, OCTOBER 23, L974

L. REF A POSED CERTAIN QUESTIONS ON CONSULAR PROTECTION OF DUAL NATIONALS IN LIGHT OF DEPARTMENT'S ADVICE FORWARDED REF B.

2. DEPARTMENT FORWARDS FOLLOWING RESPONSES TO THOSE NUMBERED QUESTIONS;

A. EXISTING AGREEMENTS BETWEEN THE US AND OTHER COUNTRIES PROVIDING A BASIS FOR CONSULAR PROTECTION OF PERSONS OF DUAL NATIONALITY RELATE TO NOTIFICATION AND ACCESS, OTHER CONSULAR FUNCTIONS RELATED TO DETAINED PERSONS, AS WELL AS THE RIGHT OF THE DETAINED PERSON TO LEAVE THE RECEIVING STATE WITHOUT THE NECESSITY OF OBTAINING FURTHER DOCUMENTATION (E.G., AN EXIT VISA). IF, IN FACT, THE RECEIVING STATE DOES NOT FAIL TO PROVIDE SENDING STATE NOTIFICATION AND ACCESS RESPECTING DUAL NATIONALS, THEN, IN PRACTICAL TERMS, THE RECEIVING STATE'S OBLIGATION HAS BEEN MET.

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PAGE 02 STATE 064386

B. THE PARTICULAR AGREEMENTS WHICH THE DEPARTMENT HAS CONCLUDED ON DUAL NATIONALS DO NOT RELATE TO THE ISSUE OF THE RECEIVING STATE'S CONFISCATION OF SENDING STATE PASSPORTS. THE PARTICULAR AGREEMENTS ARE BASED UPON THE ASSUMPTION THAT THE RECEIVING STATE NATIONAL HAS BEEN ALLOWED TO ENTER THE RECEIVING STATE ON THE BASIS OF A SENDING STATE PASSPORT AND A RECEIVING STATE ENTRY VISA. THESE PARTICULAR AGREEMENTS ACKNOWLEDGE THAT EACH SOVEREIGN STATE HAS THE RIGHT TO DETERMINE WHO WILL BE ADMITTED AND UNDER WHAT CONDITIONS.

C. IN ACCORDANCE WITH B ABOVE, THE RECEIVING STATE WOULD NOT HAVE AN OBLIGATION TO ALLOW THE SENDING STATE CONSULAR PROTECTION FOR AN INDIVIDUAL WHO HAS NOT RPT NOT BEEN ALLOWED ENTRY INTO THE RECEIVING STATE ON THE BASIS OF A SENDING STATE PASSPORT AND A RECEIVING STATE VISA. EVEN THOUGH THE RECEIVING STATE HAS NO OBLIGATION, THE SENDING STATE SHOULD CONTINUE TO EXTEND APPROPRIATE ASSISTANCE TO THE DUAL NATIONAL INSOFAR AS THIS IS ALLOWED BY THE RECEIVING STATE AS A COURTESY AND NOT AS A RIGHT.

3. THE LANGUAGE OF THE MEMO REPEATED IN TEHRAN'S A-168 "IF THE RECEIVING STATE ISSUES A VISA OR OTHER OFFICIAL DOCUMENT AUTHORIZING THE INDIVIDUAL TO ENTER THE COUNTRY" IMPLIES THAT THE RECEIVING STATE IS ESTOPPED AFTER PERMITTING ADMISSION RPT ADMISSION ON THE BASIS OF SUCH VISA. INGERSOLL

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